IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO.1101 OF 2003

IN

SUMMARY SUIT NO. 3313 OF 2003

Umer Saheb Jaan .....Plffs.
vs.
Henry D'souza .....Defnds.

Mr.Ramesh Jain, advocate
for the plaintiffs.
Ms. Bhavana Jadhav, advocate
for the defendants.

CORAM: S.U. KAMDAR, J.

DATE : 6th September, 2005.

P.C. :.

1. The present suit is filed on promissory note for Rs.1,12,000/-. The only defence raised is that the document was executed in blank and that the plaintiff by threat encashed the said document. The defendant also contends that they filed a non

cognisance complaint being no. 3111 of 2003 and inview thereof according to the defendant triable issue arises. I do not find any merits in the suit of the defendant. The complaint is a non-cognisance complaint. If the story is true of threat then actually an FIR ought to be registered because exploitation is not a non-cognisable offence. No other defence has been raised. However with a view to direct the defendant to deposit Rs.1 lac within a period of four weeks from today failing which the plaintiff will be entitled to the decree.

2. The amount so deposited will be invested by the Prothonotary and Senior master in fixed deposits of any nationalised bank initially for a period of three years and renew the same from time to time till further orders.

3. If the amount is paid as aforestated, then suit is transferred to the list of Commercial Causes. Written statement or points of defence to

be filed four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.

sd/-

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